

ARTICLE 2 DEFINITIONS

2.001. Definitions - General Provisions. For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building" and the word "shall" is mandatory.

2.003. Accessory Buildings and Uses. An accessory building is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

2.005. Agriculture. Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. (Approved Resolution No. 4921, June 30, 1987)

2.006(a). Airport. An area of land and/or water, open to the public which is designed and built for the landing and takeoff of various aircraft, including but not limited to air carrier, commuter or general aviation aircraft, and normally would include passenger terminals and other aviation related facilities and buildings. The design and minimum standards for each airport shall conform to State and Federal regulations. (Resolution No. 5367, August 26, 1996)

2.006(b). Airfield. An area of land and/or water, publicly or privately owned, that is used or intended to be used for the landing and takeoff of aircraft, including general aviation aircraft, helicopters, seaplanes and ultra light aircraft or vehicles, but excluding air carrier aircraft, that may be open to the public for commercial or business purposes and shall meet State standards on the basis of Mean Sea Level (MSL) elevations. It may include appurtenant areas, facilities or buildings suitable to house, handle or service aircraft. Any such aircraft or vehicle operating from a private airfield shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

2.006(c). Family Airfield. An airfield, the use of which is restricted to the non-commercial use by the airfield owner (who must be a natural person) or members of the owner's family, or to an individual person, lessee (who must be a natural person) or members of the lessee's family. A maximum of four (4) families may jointly use a family airfield in the manner provided in this section, so long as each family owns or is leasing a buildable parcel which has 150' frontage on the runway of the family airfield. The use of a family airfield may include an occasional guest or visitor. The family airfield shall accommodate a minimum paved runway length of 300 feet, and the vehicle using the runway shall clear the adjacent property line by a height of 50 vertical feet above the end of the runway during normal takeoff operations or by a height of 150 feet over a

Residential zoned property and 100 feet over Agriculture Residential property. Any such aircraft or vehicle shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

2.006(d). Commercial Agricultural Airfield. An airfield that is the permanent base of operation for an aerial applicator, under land ownership or lease, within the County, the operator of which is a certified applicator under the Rules and Regulations of the State of Nebraska, Department of Aeronautics. The Commercial Agricultural airfield shall be for the exclusive use and operation of the Commercial Agricultural airfield owner or lessee for their aircraft and shall not be open to the public. Any such aircraft or vehicle shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

2.006(e). Heliport. An existing or proposed heliport shall comply with the technical information and guidelines of the Federal Aviation Administration Advisory Circulars in effect at the time of application. (Resolution No. 5367, August 26, 1996)

2.007. Alley. A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

2.009. Apartment. A room or suite of rooms in a multiple dwelling, or where more than one dwelling unit is established above non-residential uses, intended or designed for use as a residence by a single family including culinary accommodations.

2.011. Apartment House. See Dwelling, Multiple.

2.013. Basement. Basement shall mean that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

2.015. Boarding House. A building other than a hotel or a motel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) or more persons, but not exceeding twenty (20) persons, including nursing homes with less than twenty-one (21) patients, and tourist homes accommodating not more than twenty (20) persons.

2.017. Broadcast Tower. Broadcast tower shall mean a structure for the transmission or broadcast of radio, television, radar or microwaves which exceeds the maximum height permitted in the district in which it is located.

2.019. Building. Any structure designed or intended for the support, enclosure, shelter or protection persons, animals, chattels, or property. Poles used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as buildings or structures under this resolution.

2.021. Buildings, Height of. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, shed and gambrel roofs.

2.023. Campground. Campground shall mean a parcel of land intended for temporary occupancy by any of the following: tent, tent trailer, or recreational vehicle. (Resolution No. 4123, August 25, 1986)

2.025. Cellar. Cellar shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

2.027. Clinic. A clinic is an establishment where patients are admitted for special study and treatment by a group of physicians practicing medicine together.

2.028. Closing Section. Any section of land bordering on the north or west line of a township. (Resolution No. 3478, June 24, 1980)

2.029. Club. Club shall mean a building or facility owned or operated by persons associated for a social, educational or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have been associated; this shall not include a church building, or the occasional accessory use of a private residence as a meeting place.

2.031. District. A section of sections of Lancaster County for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

2.032. Domestic Shelters. Domestic shelter shall mean a temporary shelter for individuals affected by domestic violence. Such use shall be operated by a public or nonprofit entity and may provide temporary boarding, lodging, counseling and support services. (Resolution No. 5407, November 19, 1996)

2.033. Dwelling. Any building or portion thereof which is designed and used exclusively for residential purposes.

2.035. Dwelling, Single Family. A building having accommodations for and occupied exclusively by one (1) family.

2.037. Dwelling, Two-Family. A building having accommodations for and occupied exclusively by two (2) families.

2.039. Dwelling, Multiple. A building having accommodations for and occupied exclusively by more than two (2) families.

2.041. Dwelling Unit. One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein.

2.043. Family. One or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two (2) persons who are unrelated for the purpose of this title:

- 1) A person residing with a family for the purpose of adoption;
- 2) Not more than six (6) persons under 16 years of age, residing in a foster home licensed as such by the State of Nebraska;
- 3) Not more than four (4) persons 16 years of age or older residing with a family for the purpose of receiving foster care;
- 4) Any person who is living with a family at the direction of a court.

2.045. Farm. An area which is used for the growing of the usual farm products such as vegetables, fruit trees, and grain and their storage on the area, as well as horses, cattle, sheep and swine. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the product; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

2.047. Farmstead. An area of twenty (20) acres or more in which is located at least one (1) dwelling unit and on which farm products of a value of one thousand dollars (\$1,000.00) or more are raised each year.

2.048. Farm Winery. Farm Winery shall mean any enterprise which produces and sells wines produced from grapes, other fruit or suitable agricultural products of which seventy-five (75) percent is grown in the State of Nebraska. (Resolution No. 5437, February 18, 1997)

2.049. Commercial Feed Lot. A use where the principal business is the feeding of livestock or poultry for the purpose of sale for slaughter or butcher. Commercial feed lot shall not include dairy herds or the keeping of livestock other than for slaughter or butcher.

2.051. Flood Plain. Flood plain shall mean those lands which are subject to a one percent or greater change of flooding in any given year. (See Article 11 for additional definitions.)

2.053. Floor Area. Floor area shall mean the total number of square feet of floor space within the outside of the exterior walls of a building, not including storage space in cellars or basements and not including space used for the parking of automobiles.

2.055. Frontage. Frontage shall mean the length of the property on one side of a street between two street intersections (crossing or terminating), measured along the property line at the street, or if the street is dead-ended, the length of the property abutting on one side between an intersecting street and the dead-end of the street.

2.057. Garage, Private. An accessory building designed or used for the storage of not more than four (4) vehicles owned and used by the occupants of the building to which it is accessory.

2.059. Garden Center. Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display or decoration of lawns, gardens or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

2.060. Government Lot. A lot which was created by the original government survey to distribute errors in measurements while subdividing a township into section. All such lots are located only in closing sections, and are recorded in the surveyor's records of Lancaster County, although specific reference to them as Government Lots may or may not have appeared in original or subsequent deeds. Copies of the surveyor's records of Lancaster County are available for inspection at the County-City Building in the Department of Building and Safety and the Planning Department, and also at the County Engineer's Office, 444 Cherrycreek Road. (Resolution No. 3478, June 24, 1980)

2.061. Grade. Grade shall mean:

- a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
- b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets;
- c) For buildings having no walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street and where no sidewalks exist the sidewalk grade shall be established by the County Engineer.

2.063. Group Home. Group home shall mean a facility in which more than two (2) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption reside while receiving therapy or counseling but not nursing care, for any of the purposes listed below. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

- a) Adaption to living with, or rehabilitation from, the handicaps of physical disability;
- b) Adaption to living with, or rehabilitation from, the handicaps of emotional or mental disorder, or mental retardation;
- c) Rehabilitation from the effects of a drug or alcohol abuse;
- d) Supervision while under a program of alternatives to imprisonment, including but not limited to pre-release and probationary programs.

2.065. Health Care Facility. Health care facility shall mean a building or structure licensed or approved by the State or appropriate agency, if required, used as any of the following:

- a) Hospital;
- b) Convalescent or nursing home;
- c) A facility in which sixteen (16) or more people reside while receiving therapy, counseling, or rehabilitation for physical, emotional or mental disease or disability;
- d) A facility for out-patient physical, occupational or vocational therapy or rehabilitation;
- e) Public health clinics and facilities.

Health care facility does not include doctor's or dentist's professional offices and private clinics.

2.066. Heritage Center. One or more buildings and open space within which a historical significant era or activity is displayed, provided that, the retail of crafts or other works is complementary to such era of activity. (Resolution No. 4277, April 28, 1987)

2.067. Home Occupation. Home occupation shall mean any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in Article 15.

2.069. Hotel. A dwelling not consisting of dwelling units and occupied by more than twenty (20) persons all of whom may reach their living accommodations by passing through one central lobby.

2.071. Housing for the Elderly. Housing for the elderly shall mean any dwelling in which each occupied dwelling unit is occupied by at least one (1) person of 60 years of age or more.

2.072. Interior Section. Any section of land in a township, except those sections lying along the west line or north line of a township. (Resolution No. 3478, June 24, 1980)

2.073. Landscaping. Landscaping shall mean that an area is permanently devoted and maintained for the growing of trees, shrubbery, lawns and other plant materials; landscaping shall conform to all applicable standards adopted by the County Board.

2.075. Lodging House. A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

2.077. Lot, Buildable. Buildable lots shall mean:

- 1) A parcel of land occupied or intended for occupancy by a use permitted in this resolution, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this resolution, and fronting upon a street, as

herein defined, except for lots recorded in the Register of Deeds Office prior to the adoption of this resolution, which need not front on a public street. A lot may front upon a private roadway or have other frontage requirements if specifically provided in this title.

2) A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County at the time of the adoption of this resolution, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot described by a deed recorded with the Register of Deeds for Lancaster County at the time of passage of this resolution; provided that if a lot has less width or area as required by this resolution, and if the ownership of this lot is or has been common with any contiguous land, the lot is not a buildable lot.

2.079. Lot, Corner. A lot abutting upon two (2) or more streets at their intersection.

2.081. Lot, Depth of. The average horizontal distance between the front and rear lot lines.

2.083. Lot, Double Frontage. A lot having frontage on two (2) streets as distinguished from a corner lot.

2.085. Lot of Record. Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County on or before September 3, 1968, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot as described by a deed recorded with the Register of Deeds for Lancaster County on or before September 3, 1968, provided that such lot is numbered and described by the County Surveyor and is not greater in area than one (1) acre.

2.087. Lot, Platted. Platted lot shall mean a lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for Lancaster County.

2.089. Mobile Home. See Trailer.

2.091. Mobile Home Court. Any mobile home court, campsite, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for mobile homes and upon which mobile homes are parked and shall include all building used or intended for use as part of the equipment thereof whether a charge is made for the use of the mobile home court and its facilities or not. "Mobile home court" shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

2.093. Motel. A dwelling not consisting of dwelling units and occupied by more than twenty (20) persons, in which there is no central lobby to reach individual living accommodations.

2.095. Nonconforming Use. Nonconforming use shall mean the use of any dwelling, building, structure, lot, land or premises, or part thereof, which was existing and lawful immediately prior to the effective date of this title and which does not conform with the provisions of this title and any amendments thereto.

2.097. Nonstandard Use. Nonstandard use shall mean the category of non-conformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this title which fail to comply with the minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this title.

2.099. Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or ally and permitting ingress and egress of an automobile.

2.101. Premises. A tract of land consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

2.102. Quarter Section. One quadrant of a section of land, established by running straight lines between opposite quarter-section corners, the point of intersection of such lines being the common corner of the four quadrants. (Resolution No. 3478, June 24, 1980)

2.103. Recreational Facilities. Recreational facilities shall mean facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming or golf. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include areas or stadia used primarily for spectators to watch athletic events.

2.105. Rooming House. See Lodging House.

2.107. Row House. See Townhouse.

2.109. Service Station. Service station shall mean any building or premises which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washing, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray painting operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump island shall be located more than twelve (12) feet from the nearest property line.

2.111. Sign. Sign shall mean any symbolic device capable of visual communication or attraction which is visible from off the premises upon which it is located. Signs shall include any announcement, words, written material, illustration, symbol, picture, insignia or structure which directs attention to a product, service, place, activity, person, institution, business or solicitation including any emblem, painting, banner, pennant or placard designed to advertise, identify, or convey information with the exception of merchandise window displays, national flags and sculpture. For the purpose of removal, sign shall also include all sign structures.

2.112. Single-family Airfield. An airfield, the use of which is restricted to the owner or members of his family; however, the gross take off weight of the aircraft using the airfield may not exceed 12, 500 pounds and the facility must meet the rules and regulations of the Nebraska Department of Aeronautics. (Resolution No. 4369, April 26, 1988)

2.113. Solar Screen. Solar screen shall mean a device attached to a building to provide shading for glazed areas thereof.

2.115. Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

2.117. Story, Half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is finished off for use.

2.119. Highway, Street, or Road. All property acquired or dedicated to the public and accepted by the appropriate governmental agency for highway, street or road purposes. Property that has been commonly used or dedicated to be used for highway, street or road purposes prior to the adoption of this resolution shall be considered a highway, street or road.

2.121. Highway, Street or Road Centerline. A line midway between highway, street or road lines.

2.123. Highway, Street or Road Line. A dividing line between a lot, tract or parcel of land and a contiguous highway, street or road. The location of a highway, street, or road line shall be as shown on the County Engineer's Sectional Plats.

2.124(a). Sexually Oriented Live Entertainment Establishment. Sexually oriented live entertainment establishment shall mean any commercial establishment that as a substantial or significant portion of its business, features or provides any of the following:

- (1) Persons who appear showing specified anatomical areas.
- (2) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of specific anatomical areas or the conduct or simulation of specified sexual activities.

Sexually oriented live entertainment establishment shall not include any theater, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performance. (Resolution 00-129, October 13, 2000)

2.124(b). Specified Anatomical Areas. Specified anatomical areas shall mean:

- (1) Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.

- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state. (Resolution 00-129, October 13, 2000)

2.124(c). Specified Sexual Activities. Specified sexual activities shall mean any of the following:

- (1) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- (2) Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Human genitals in a state of sexual stimulations, arousal or tumescence.
- (5) Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3) or (4) of this section. (Resolution 00-129, October 13, 2000)

2.125. Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts, and pergolas, provided the foregoing shall not apply to gasoline pumps and gasoline pump islands in the "B" Business district which shall be located not less than twelve (12) feet from the nearest property line.

2.127. Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

2.129. Tourist Home. A building in which no to exceed twenty (20) rooms are rented to transients.

2.131. Townhouse. Townhouse shall mean one of a group or row of not less than three (3) nor more than twelve (12) attached, single-family dwellings designed and built as a single structure facing upon a street, in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

2.133. Trailer, Mobile Home. Trailer, mobile home shall mean a dwelling, more than eight (8) feet wide and more than thirty two (32) feet long, and designed and built to be towed on its own chassis. (Resolution No. 3777, January 18, 1983)

2.135. Yard Line. The yard line is a line on the lot running parallel to and the required distance from the nearest lot line.

2.137. Yard, Required. Required yard shall mean the required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies or open porch as otherwise provided in this title.

2.139. Yard, Required Front. The required front yard shall extend across the front of a lot between the side lot lines. There shall be a required front yard on each street side of a corner lot.

2.141. Yard, Required Rear. The required rear yard shall extend across the rear of a lot between the side lot lines. On corner lots, the required rear yard may be to the rear of either street, provided that the minimum required rear yard shall be calculated on the longest average lot dimension. On interior lots, the required rear yard shall in all cases be at the opposite end of the lot from the front yard.

2.143. Yard, Required Side. The required side yard shall extend between the front yard line and the rear yard line. There shall be only one required side yard on a corner lot.